

Title 409 - NEBRASKA DEPARTMENT OF ROADS - CONSTRUCTION DIVISION

Chapter 1 is stricken and Chapter 2 is renumbered as Chapter 1.

Chapter 2 1 - Contracts, Bid proposal Forms, and Qualifications of Bidders ~~Proposing to Bid on State Highway Work – English~~ (Metric) System Measurements

001 ABBREVIATIONS AND DEFINITIONS USED IN CONTRACTS AND BID PROPOSALS. Whenever in the ~~State of Nebraska, Department of Roads,~~ *Standard Specifications for Highway Construction* or in other contract documents, the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

001.01 ABBREVIATIONS: Whenever the following abbreviations are used in the Standard Specifications or in the Plans, they are to be construed the same as the respective expressions represented:

| | |
|----------------------------|---|
| AAN | American Association of Nurserymen. |
| AASHTO | American Association of State Highway and Transportation Officials. |
| ACI | American Concrete Institute. |
| AISC | American Institute of Steel Construction. |
| ANSI | American National Standards Institute. |
| ASTM | American Society for Testing and Materials. |
| AWG | American Wire Gage. |
| AWPA | American Wood Preservers Association. |
| AWS | American Welding Society. |
| CFR | Code of Federal Regulations. |
| DBE | Disadvantaged Business Enterprises. |
| EBS | Electronic Bidding System. |
| FHWA | Federal Highway Administration. |
| IMSA | International Municipal Signal Association. |
| ICEA | Insulated Cable Engineers Association. |
| ITE | Institute of Transportation Engineers. |
| MUTCD | Manual on Uniform Traffic Control Devices for Streets and Highways. |
| NDR <u>NDOR</u> | Nebraska Department of Roads. |
| NEC | National Electrical Code. |
| NEMA | National Electrical Manufacturers Association. |
| SAE | Society of Automotive Engineers. |
| SSPC | Steel Structures Painting Council. |
| UL | Underwriters Laboratories. |
| VEP | Value Engineering Proposal. |

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Work – English (Metric) System Measurements

001.02 Common engineering and construction abbreviations for measurements and work items are:

Items of Work and Units of Measurement

| | |
|-----------------------------|---------------------------|
| <u>A</u> | <u>Ampere</u> |
| <u>a</u> | <u>Acre</u> |
| cd | Candela |
| cm | Centimeter |
| Conc. | Concrete |
| m ³ | Cubic Meter |
| m ³ /s | Cubic Meters per Second |
| ea | Each |
| <u>ft</u> | <u>Foot/Feet</u> |
| <u>ft² or SF</u> | <u>Square Feet</u> |
| <u>ft³ or CF</u> | <u>Cubic Feet</u> |
| <u>FC</u> | <u>Foot-Candle</u> |
| <u>ft-lb</u> | <u>Foot-Pound</u> |
| <u>gal, G or g</u> | <u>Gallon</u> |
| <u>gpm or GPM</u> | <u>Gallons Per Minute</u> |
| <u>gps</u> | <u>Gallons per Second</u> |
| h | Hour |
| Hz | Hertz |
| <u>in</u> | <u>Inch</u> |
| J | Joule |
| kg | Kilogram |
| <u>kip</u> | <u>1000 Pounds</u> |
| km/h | Kilometers per hour |
| kN | Kilonewton |
| kPa | Kilopascal |
| <u>lb</u> | <u>Pound</u> |
| <u>LF</u> | <u>Linear Foot</u> |
| L | Liter |
| L/h | Liters per Hour |
| L/min. | Liters per Minute |
| L/s | Liters per Second |
| lm | Lumen |
| LS | Lump Sum |
| lx | Lux |

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| | |
|-----------------------------|-------------------------------|
| <u>MGal</u> | <u>1000 Gallon</u> |
| Mg | Megagram |
| MHz | Megahertz |
| MPa | Megapascal |
| M | Meter |
| µm | Micrometer |
| <u>mil</u> | <u>1/1000 Inch</u> |
| <u>Mi or M</u> | <u>Mile</u> |
| <u>MPH</u> | <u>Miles Per Hour</u> |
| mm | Millimeter |
| N | Newton |
| Pa | Pascal |
| PVC | Polyvinyl Chloride |
| <u>psi</u> | <u>Pounds Per Square Inch</u> |
| s | Second |
| m ² | Square Meter |
| <u>Sta</u> | <u>Station</u> |
| StaM | Station (Metric) |
| St. | Steel |
| <u>T</u> | <u>Ton</u> |
| <u>V</u> | <u>Volt</u> |
| W | Watt |
| <u>yd³/s</u> | <u>Cubic Yards Per Second</u> |
| <u>yd² or SY</u> | <u>Square Yards</u> |

001.03 DEFINITIONS

001.04 ACCESS CONNECTION: Any roadway facility by means of which vehicles can enter or leave an arterial highway. Included are intersections at grade, private driveways, and ramps or separate lanes connecting with cross streets or frontage roads.

001.05 ADDENDUM: A written and/or graphic document, issued to all bidders and identified as an addendum prior to bid opening, which modifies or supplements the bid documents and becomes a part of the contract.

001.06 ADVERTISEMENT: A public announcement inviting bids for work to be performed or materials to be supplied.

001.07 ARTERIAL HIGHWAY: A highway primarily for through traffic, usually on a continuous route.

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001.08 AUXILIARY LANE: The portion of the roadway adjoining the traveled way for parking, speed change, or for other purposes supplementary to through traffic movement.

001.09 AWARD: The decision of the Department to accept the bid proposal of the lowest responsible bidder for the work, subject to the execution and approval of a satisfactory contract therefore and bond to secure the performance thereof, and to such other conditions as may be specified or otherwise required by law.

001.10 BACKSLOPE: The surface of a cut that slopes downward toward the roadway.

001.11 BALANCE FACTOR: A ratio used to equate the amount of excavation to the amount of fill. Excavation generally will exceed the amount of fill because, in handling, soil shrinkage occurs.

001.12 BID BOND: A bond provided by the bidder and obtained from a Surety Company authorized to contract in Nebraska, which secures the bidder's bid until the Contract Bond becomes effective. The Bid Bond can either be a project specific bond or and annual bond which covers all projects bid for a 12 month period shown in the bond. In the event the low bidder fails to comply with any requirement regarding the execution of the contract the Department shall immediately be entitled to recover the full amount of the bid bond as liquidated damages. In the case of the annual bid bond the full amount of the bond shall be the sum required as a proposal guarantee pursuant to paragraph 003.08 of these Rules.

001.13 ~~001.62~~ BID PROPOSAL: A bidder's ~~written or electronic~~ offer on Department ~~furnished~~ provided forms to perform stated work at the quoted prices. It includes all documents provided for in the bid proposal package as set forth in paragraph 003.04.

001.14 ~~001.12~~ BIDDER: Any individual, firm, corporation, or joint venture of individuals, firms, or corporations submitting a bid proposal for the work contemplated, acting directly or through a duly authorized representative.

001.15 ~~001.13~~ BORROW SITE: The source of approved material required for the construction of embankments, or other portions of earthwork requirements, from locations shown in the Plans or approved by the Engineer.

001.16 ~~001.14~~ BRIDGE: A structure, including supports, erected over a depression or any obstruction, as a water course, highway, or railway, and having a track or passageway for carrying traffic or other moving loads and having a length measured along the centerline of a roadway of more than 20 feet (6.0 m) between undercopings of abutments or extreme ends of openings for multiple boxes.

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001.17 ~~001.15~~ BRIDGE LENGTH: The overall length along the centerline of the bridge from end to end of the bridge floor.

001.18 ~~001.16~~ CALENDAR DAY: Every day shown on the calendar, including Sundays and holidays, beginning and ending at midnight.

001.19 ~~001.17~~ CHANGE ORDER: A written order issued by the Engineer to the Contractor , covering changes within the scope of the contract.

001.20 ~~001.18~~ CHANNEL: A natural or artificial waterway.

001.21 ~~001.19~~ COMMISSION: The Nebraska State Highway Commission.

001.22 ~~001.20~~ CONTRACT:

001.22A ~~001.20A~~ The written agreement executed between the Department and/or any other political subdivision and the successful bidder, covering the performance of the work and the furnishing of labor and material, by which the ~~Contractor~~ bidder is bound to construct, reconstruct, improve, maintain and/or repair roads, bridges, and their appurtenances and furnish the labor and materials, and by which the Department is obligated to compensate him/her therefore at the mutually established and accepted rate or price.

001.22B ~~001.20B~~ The Contract includes the ~~invitation for bids~~ "Notice to Contractors", bid proposal, contract form and contract bond, Standard Specifications, supplemental specifications, special provisions, general and detailed plans, notice to proceed, and any change orders and agreements that are required to complete the construction of the work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

001.23 ~~001.21~~ CONTRACT BOND: The security executed by the ~~Contractor~~ bidder and the ~~Contractor bidder's~~ surety or sureties furnished to the Department to guarantee complete performance of the contract.

001.24 ~~001.22~~ CONTRACT ITEM: An item of work specifically described and for which a price, either unit or lump sum, is provided. It includes the performance of all work and the furnishing of all labor, equipment, and materials described in the text of the Standard Specification item included in the contract or described in any subdivision of the text of the Supplemental Specification or Special Provision of the Contract.

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001.25 ~~001.23~~ **CONTRACTOR:** The prequalified individual or legal entity contracting with the Department and/or any other political subdivision for the construction, reconstruction, improvement, maintenance, and/or repair of roads, bridges and their appurtenances.

001.26 ~~001.24~~ **CONTRACT PERIOD:** The period from the specified date of commencing work to the date that the specified number of working days or calendar days, as the case may be, has elapsed, both dates inclusive, or from the specified date of commencing work to the specified date for completion, both dates inclusive, as specified in the contract.

001.27 ~~001.25~~ **CONTRACT TIME OR COMPLETION DATE:** The number of working or calendar days specified in the bid proposal as the time allowed for the completion of the work contemplated in the Contract, including authorized time extensions. When a calendar date of completion is shown in the bid proposal, in lieu of a number of working or calendar days, the work contemplated shall be completed by that date.

001.28 ~~001.26~~ **CONTROL OF ACCESS:** The condition where the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by public authority.

001.28A ~~001.26A~~ **FULL CONTROL OF ACCESS:** The authority to control access is exercised to give preference to through traffic by providing access connections with selected roads only and by prohibiting crossings at grade or direct private driveway connections.

001.28B ~~001.26B~~ **PARTIAL CONTROL OF ACCESS:** The authority to control access is exercised to give preference to through traffic to a degree that, in addition to the access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

001.29 ~~001.27~~ **COUNTY:** The County in which the work is to be done, represented by its Board of Commissioners or Supervisors. Reference to any County officer shall be taken to mean such officer of the County as now defined.

001.30 ~~001.28~~ **CULVERT:** Any structure not classified as a bridge which provides an opening under any roadway.

001.31 ~~001.29~~ **CURRENT CONTROLLING OPERATION:** The operation that must be performed on the current day to prevent delay in the final completion of the work.

001.32 ~~001.30~~ **DEPARTMENT:** The Nebraska Department of Roads.

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001.33 001.34 DETOUR: A temporary official route using existing roads to divert traffic around a roadway project. Detours are maintained and marked by the State or other proper authority.

001.34 001.32 DIVIDED HIGHWAY: A highway with separated roadways for traffic in opposite directions.

001.35 001.33 EARTHWORK MEASURED-IN-EMBANKMENT: The calculated volume of the embankment shown in the Plans where balance factors do not apply.

001.36 001.34 EASEMENT (RIGHT-OF-WAY): A right acquired by public authority to use or control property for a designated highway purpose.

001.37 001.35 EMBANKMENT: A raised soil structure.

001.38 001.36 EMPLOYEE: A person working on a Department project for the Contractor.

001.39 001.37 ENGINEER: The Director, acting directly or through a representative duly authorized by the Director, such representative acting within the scope of the particular duties assigned to him/her or of the authority given to him/her.

001.40 001.38 EQUIPMENT: All machinery and supplies necessary for the construction, performance, and completion of the Contract.

001.41 001.39 EXPRESSWAY: A divided arterial highway for through traffic with full or partial control of access and which may have grade separations at intersections.

001.42 001.40 EXTRA WORK: An item of work and/or provisions for materials not included in the original contract.

001.43 001.41 FEDERAL AGENCIES AND OFFICERS: Agencies, officers, and their successors of the United States Government.

001.44 FINAL ACCEPTANCE: Final acceptance is the date a final payment document is drawn by the Department.

001.45 FINAL TENTATIVE ACCEPTANCE: Final tentative acceptance is the date of the "Final Tentative Acceptance" letter to the contractor accepting all of the work. The Engineer's "Final Tentative Acceptance" letter relieves the contractor of responsibility for the care and maintenance of the completed work; of public liability; and for damages due to the actions of the elements or the action of traffic.

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001.46 ~~001.42~~ FORESLOPE: The surface sloping downward and away from shoulder line.

001.47 ~~001.43~~ FREEWAY: An expressway with full control of access.

001.48 ~~001.44~~ FRONTAGE STREET OR FRONTAGE ROAD: A local street or road adjacent to a highway for service to abutting property.

001.49 ~~001.45~~ GRADE SEPARATION: A crossing of two highways at different elevations.

001.50 ~~001.46~~ HIGHWAY: A road or street, including the entire area within the right-of-way, which has been designated a part of the State Highway System.

001.51 ~~001.47~~ HOLIDAYS: Nebraska legal holidays occur on January 1, the third Monday in January and February, the last Friday in April, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday and the following Friday in November, and December 25. If the date falls on Sunday, the following Monday shall be the holiday. If the date falls on Saturday, the preceding Friday shall be the holiday. All dates are subject to possible revision by State Statute or by proclamation of the Governor.

001.52 ~~001.48~~ INSPECTOR: The Engineers authorized representative assigned to make detailed inspections of the work performed and materials furnished by the Contractor.

001.53 ~~001.49~~ LABORATORY: The testing laboratory of the Department or any other testing laboratory which may be designated by the Engineer.

001.54 ~~001.50~~ LETTING: The public opening and reading of bids received from prequalified ~~Contractors~~ bidders for work advertised by the Department.

001.55 ~~001.51~~ MATERIALS: Any substance specified for use in the construction of the project. All materials shall be new unless otherwise stated in the Plans or Special Provisions.

001.56 ~~001.52~~ MEDIAN: The portion of a divided highway separating the traveled ways.

001.57 ~~001.53~~ MEDIAN LANE: A speed-change lane within the median to accommodate left-turning vehicles.

001.58 ~~001.54~~ MITIGATION SITE: Those areas that will replace waterways, including wetlands, impacted in highway construction. The mitigation site must be constructed to insure that it meets the criteria of a wetland.

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001.59 ~~001.55~~ NOTICE TO CONTRACTORS: The advertisement of the provisions, requirements, and instructions pertaining to the work on which bids are to be received, manner and time of submitting bid proposals, ~~quantities of major items of work required~~, as prepared for the information of bidders.

001.60 ~~001.56~~ NOTICE TO PROCEED: A written notice to the Contractor establishing the date the Contractor shall begin the contracted work.

001.61 ~~001.57~~ PAVEMENT STRUCTURE: The combination of sub-base, base course, foundation course, and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

001.62 ~~001.58~~ PLANS: The official Plans, profiles, typical cross sections, general cross sections, summary of soil and materials survey information, aerial photo maps, earthwork computations, design data, and supplemental drawings, or exact reproductions thereof, approved by the Engineer, which show the location, character, dimensions and details of the work to be done, and which are to be considered as a part of the contract supplementary to the Standard Specifications.

001.63 ~~001.59~~ POINT OF DELIVERY: A place, determined by the contract or the Engineer, where materials will be received or placed.

001.64 ~~001.60~~ PROFILE GRADE: The trace of a vertical plane intersecting the top of the proposed wearing surface, usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of the trace depending on the context.

001.65 ~~001.61~~ PROJECT: ~~The specific section of the highway together with all appurtenances and construction to be performed thereon~~ under the contract.

001.66 ~~001.63~~ PROPOSAL GUARANTY: The security furnished with a bid to assure that the bidder will enter into a contract for the work if the bid proposal is accepted.

001.67 ~~001.65~~ QUALITY ASSURANCE: All those planned and systematic actions the Department takes to determine that a product or service will satisfy specified quality requirements.

001.68 ~~001.66~~ QUALITY CONTROL: All Contractor/supplier operational techniques and activities that are performed or conducted to fulfill the Contract requirements.

001.69 ~~001.67~~ RAMP: A connecting roadway between two intersecting highways at an interchange.

001.70 ~~001.68~~ RIGHT-OF-WAY: Real property used for transportation purposes.

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001.71 ~~001.69~~ ROAD: A public way for the purposes of vehicular travel, including the entire area within the right-of-way. A road designated as part of the State Highway System may be called a highway, while a road in an urban area may be called a street.

001.72 ~~001.70~~ ROADBED: That portion of a roadway upon which the base course, surface course, shoulders and medians are constructed. Divided highways are considered to have two roadbeds.

001.73 ~~001.74~~ ROADSIDE: The area within the right-of-way, excluding the traveled way, auxiliary lanes, and the shoulders.

001.74 ~~001.72~~ ROADSIDE DEVELOPMENT: Improvements placed or constructed for the preservation or enhancement of landscape features, rehabilitation and prevention of erosion, and increasing the effectiveness and enhancing the appearance of the highway.

001.75 ~~001.73~~ ROADWAY: The portion of the a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

001.76 ~~001.74~~ ROADWAY WIDTH: The clear width measured at right angles to the centerline and measured between the bottom inside face of the curbs, rails, or shoulder breaks.

001.77 ~~001.75~~ SETBACK LINE: A line outside of the right-of-way, established by public authority, on the highway side of which the erection of buildings or other permanent improvements is controlled.

001.78 ~~001.76~~ SHOOFLY: A Contractor built, marked, and maintained route around a specific construction site. When an entrance and/or exit ramp must be built to provide access to a "DETOUR," the ramps will be considered to be shooflies. Maintenance excludes snow removal.

001.79 ~~001.77~~ SHOULDERS: The portion of the roadway contiguous with the traveled way for accommodation of vehicles stopped for emergencies and for lateral support of the pavement structure.

001.80 ~~001.78~~ SOIL: Those materials listed in Bureau of Reclamation and Corps of Engineers Unified Soil Classification System.

001.81 ~~001.79~~ SPECIAL PROVISIONS: Additions and revisions to the Nebraska *Standard Specifications for Highway Construction* and *Supplemental Specifications To The Standard Specifications for Highway Construction*. ~~covering conditions peculiar to an individual project.~~

001.82 ~~001.80~~ SPECIFICATIONS: The general term comprising all the directions, provisions, and requirements contained in the Nebraska *Standard Specifications for Highway Construction*, together with such as may be added or adopted as *Supplemental Specifications To The Standard Specifications for Highway Construction* or Special Provisions, all of which are necessary for the proper performance of the Contract.

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001.83 ~~001.84~~ SPEED-CHANGE LANE: An auxiliary lane, including tapered areas, primarily for the acceleration or deceleration of vehicles entering or leaving the through traffic lanes.

001.84 ~~001.82~~ STATE: The State of Nebraska acting through its authorized representatives.

001.85 ~~001.83~~ STATION: The point on the ground which is part of the line defining the profile of the survey. Distance between full stations is 100 feet (100 m). The beginning point of a survey is station 0, unless otherwise designated.

001.86 ~~001.84~~ STREET: A public way for the purpose of vehicular travel in a city or village and shall include the entire area within the right-of-way.

001.87 ~~001.85~~ SUBCONTRACTOR: Any individual, firm, or corporation to whom the Contractor or Subcontractor, with the written consent of the Department, sublets any part of the contract.

001.88 ~~001.86~~ SUBGRADE: The upper portion of the roadbed, upon which the pavement structure and shoulders are constructed. Usually the subgrade depth is 6-inches (150 mm).

001.89 ~~001.87~~ SUBSIDIARY: Work and material requirements that are not measured for payment and for which no direct payment is made. The ~~Contractor~~ bidder must include the cost of performing these requirements in another item that is identified in the Plans or Specifications.

001.90 ~~001.88~~ SUBSTRUCTURE: The part of the structure below:

001.90A ~~001.88A~~ The simple and continuous span bearings.

001.90B ~~001.88B~~ The bottom of the girder or bottom slab soffit.

001.90C ~~001.88C~~ Construction joints at the top of vertical abutment members or rigid frame piers.

(Substructures include endwalls, wingwalls, barriers, railings attached to the wingwalls, and cantilever barriers and railings.)

001.91 ~~001.89~~ SUPERINTENDENT: The Contractors authorized representative in responsible charge of the work.

001.92 ~~001.90~~ SUPERSTRUCTURE: The entire structure above the substructure.

001.93 ~~001.94~~ SUPPLEMENTAL AGREEMENTS: Written agreements executed by the Contractor and the Department or other contracting agency, subsequent to having entered into the contract, covering alterations in the Plans or unforeseen items of construction.

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001.94 001.92 SUPPLEMENTAL SPECIFICATIONS: Specifications adopted subsequent to the current edition of the ~~State of Nebraska, Department of Roads, Standard Specifications for Highway Construction.~~ Supplemental Specifications shall prevail over those published in the ~~State of Nebraska, Department of Roads, Standard Specifications for Highway Construction~~ whenever in conflict therewith.

001.95 001.93 SURETY: The corporate body registered and/or licensed to do business in Nebraska bound with and for the ~~Contractor~~ bidder for the acceptable performance of the contract, the completion of the work, and for the payment of all just claims arising therefrom.

001.96 001.94 TRAFFIC LANE: The portion of a traveled way for the movement of a single line of vehicles.

001.97 001.95 TRAVELED WAY: The portion of the roadway for the movement of vehicles, exclusive of shoulders ~~and auxiliary lanes.~~

001.98 001.96 UNBALANCED BID, MATERIALLY: A bid that generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Department. May cause a bid to be disqualified.

001.99 001.98 UNBALANCED BID, MATHEMATICALLY: A bid containing lump sum or unit bid items that do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs.

001.100 001.98 VALUE ENGINEERING PROPOSAL: A proposal developed by the Contractor for modifying the Plans, Specifications, or other requirements of the Contract for the purpose of reducing the total cost of the construction without reducing the design capacity or quality of the finished product.

001.101 001.99 WEIGHT:

001.101A 001.99A Weight is a measure of force in the English (Metric) system and the units are pounds (Newtons). Mass is measured in slugs or pounds (grams). Most scales used in the highway construction industry measure an objects gravitational force at the scale location. However, the unit of measurement on most ~~metric~~ scales is grams and these readings are generally not corrected for the existing gravitational force to allow conversion of the measured force to the objects true mass.

001.101B 001.99B Certified scale measurements are considered by the Department to be acceptable measures of an objects mass.

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001.102 ~~001.100~~ WETLANDS: Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (Wetlands generally include swamps, marshes, bogs, and similar areas.)

001.103 ~~001.101~~ WORK: Work shall be understood to mean the furnishing of all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the project by the Contractor and the carrying out of all duties and obligations imposed by the Contract.

001.104 ~~001.102~~ WORKING DAY

001.104A ~~001.102A~~ A working day is any calendar day, Monday through Friday, when the Contractor is not prevented by weather, soil conditions, or other conditions beyond his/her control from working on the current controlling operation for more than 50 percent of the hours in his/her normal schedule with more than 80 percent of his/her normal working force.

001.104B ~~001.102B~~ If any work requiring engineering or inspection by the Department is performed on a Sunday, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, or Christmas Day, then that day will be considered a working day.

001.104C ~~001.102C~~ Except as noted in Section ~~001.102B~~ 001.104B above, Saturdays, Sundays, and Nebraska holidays will not be counted as working days.

001.105 ~~001.103~~ WORKING DRAWINGS: Shop drawings, shop plans, erection plans, falsework plans, framework plans, cofferdam cribbing and shoring plans, bending diagrams for reinforcing steel, or any other supplementary plans or similar data, including a schedule of submittal dates for working drawings where specified, which the Contractor must submit to the Engineer.

001.106 ~~001.104~~ WORK ORDER: A written order directing the performance of work or furnishing of materials not included in the original contract.

ANNOTATION

**Title 409
Chapter 2 1
Section 001**

**Enabling Legislation
39-102 and 39-1352
Neb. Rev. Stat.**

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002 ~~PROPOSAL REQUIREMENTS AND CONDITIONS AND AWARDING OF CONTRACTS ON STATE HIGHWAY WORK~~ REQUIREMENTS FOR BIDDERS ON CONTRACTS AWARDED BY THE DEPARTMENT

002.01 PREQUALIFICATION OF BIDDERS

002.01A All persons, (any individual, co-partnership, association, corporation or joint stock company) proposing to bid on a contract for the construction, reconstruction, improvement, maintenance, or repair of roads, bridges and their appurtenances to be let by the Department of Roads shall submit a statement showing his/her experience, equipment, and financial condition; except that such statement shall not be required for contracts for repair and maintenance where the estimate of the Engineer for such repair and maintenance is less than twenty-five hundred dollars, or of an emergency nature. Such statement shall be under oath and on a form to be provided by the Department and shall be submitted not later than ten days before the letting of the Contract or Contracts. The statement shall develop fully the financial ability, adequacy of plant and equipment, organization, prior experience, and such other pertinent and material facts as may be desirable. The Department may require additional information at any time. The statements of ~~Contractor's~~ bidder's experience, equipment, and financial condition will not be retained in the active file of qualified bidders after the financial condition shown is of a date fifteen months prior. Any person whose qualification will expire on or before the date of a letting must submit a new statement and request to be qualified at least ten days before the letting at which he/she desires to bid. Any person who desires a change in his/her qualification must submit a new statement or a request in writing at least ten days before the letting at which the change would be effective. Upon the compliance with all laws and rules and regulations relating thereto, such person will be qualified for the amount and class of work to which he/she is entitled. All information furnished the Department shall be confidential.

002.01B The financial showing required in such statement shall be certified by a public accountant holding a currently valid permit from the Nebraska Board of Public Accountancy or by any certified public accountant holding a currently valid permit.

002.01C The use of a "Letter of Credit" as an alternate means of showing financial condition will be permitted when the net amount of the "Letter of Credit" does not exceed two hundred fifty thousand dollars. The "Letter of Credit" must be from a licensed or chartered financial institution. The "Letter of Credit" shall be certified by a public accountant holding a currently valid permit from the Nebraska Board of Public Accountancy or by any certified public accountant holding a currently valid permit.

002.02 QUALIFICATION

002.02A Each person will be qualified upon such statement for an amount of work which he/she can perform properly as evidenced by his/her financial statement and supplementing documents, and

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his/her competency and responsibility as evidenced by the amount, condition, and availability of equipment, experience of personnel, and previous record with this and other awarding authorities.

002.02B Each person will be notified of the “maximum qualification” established in his/her case by the Department. The “maximum qualification” established may be increased or decreased at any time if, as determined by the Department, the performance record of the ~~Contractor~~ bidder warrants such action.

002.02C A new statement may be requested at any time if, in the opinion of the Department, significant changes in the responsibility or financial ability of the person ~~qualified~~ have occurred.

002.02D Ratings ~~The Department may determine that a bidder is qualified to bid on for any one~~
or combination of the following groups of work ~~will be given~~:

| <u>Group Number</u> | <u>Work Class</u> |
|---------------------|-----------------------|
| 1 | Grading |
| 2 | Aggregates |
| 3 | Concrete Pavement |
| 4 | Culverts |
| 5 | Landscaping |
| 6 | Bridges |
| 7 | Guard Rail |
| 7b | Fence |
| 8 | Specialty |
| 8a | Building Construction |
| 8b | Electrical |
| 8c | Signing |
| 8d | Painting |
| 8e | Demolition |
| 9 | Bituminous |
| 10 | General (All Classes) |

002.02E Any person who desires a change in the class or classes of work for which he/she is qualified to submit bid proposals must submit a request in writing for such change at least ten days before the letting at which he/she desires to bid with the new classification.

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002.03 DRUG-FREE WORKPLACE

002.03A The State of Nebraska requires that all ~~Contractors and Subcontractors~~ bidders on any and all highway construction, maintenance, or improvement contracts let by the Department to must ~~have on file with the Department~~ a written Drug-Free Workplace Policy with the Department.

002.03A1 A Drug-Free Workplace Policy letter shall be submitted along with the other documents required to establish a ~~Contractor's~~ bidder's qualification to bid on Department contracts.

002.03A2 ~~The Contractor shall certify the company's Drug-Free Workplace Policy by signing the Bid proposal Signature Page. By signing the Bid proposal Signature Page the bidder certifies that the company is operating under a written Drug-Free Workplace Policy on file with the Department.~~

002.04 ~~003.05A~~ EXAMINATION OF PLANS, SPECIFICATIONS, SPECIAL PROVISIONS, AND SITE OF WORK

002.04A ~~003.05A~~ The Department will provide detailed Plans and Specifications. The bidder, before submitting a bid proposal, shall carefully examine:

002.04A1 ~~003.05A1~~ The site of the proposed work.

002.04A2 ~~003.05A2~~ The bid proposal as defined in paragraph 003.04.

002.04A3 ~~003.05A3~~ The Plans.

002.04A4 ~~003.05A4~~ The Specifications.

002.04A5 ~~003.05A5~~ The Supplemental Specifications.

002.04A6 ~~003.05A6~~ The Special Provisions.

002.04A7 ~~003.05A7~~ ~~The Contract forms.~~ Other required forms.

002.04A8 ~~003.05A8~~ The permit conditions.

002.04A9 The addendums.

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002.04B ~~003.05B~~ The submission of a bid is considered conclusive evidence that the bidder made the examinations required in Section 002.04A above and that the bidder is satisfied with and understands the conditions to be encountered in performing the work and other requirements in the Contract.

~~003 – CURRENT RATING AND PROPOSAL FORMS FOR CONTRACTORS PROPOSING TO BID ON STATE HIGHWAY CONTRACTS~~

002.05 ~~003.06~~ FEDERALLY FUNDED CONTRACTS - EQUAL EMPLOYMENT OPPORTUNITY

002.05A ~~003.06A~~ Each Contractor and Subcontractor submitting a Bid proposal must certify that he/she has or has not participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Federal Executive Order 11246, and that he/she has or has not filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former Presidents Committee on Equal Employment Opportunity all reports due under the applicable filing requirements.

002.05B ~~003.06B~~ The certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b)(1)), and must be submitted by bidders and proposed Subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts or subcontracts of \$10,000 or less are exempt.)

002.05C ~~003.06C~~ Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations. Standard Form 100 (EEO-1) must be filed by:

002.05C1 ~~003.06C1~~ Employers covered by Title VII of the Civil Rights Act of 1964 and employers covered by Federal Executive Order 11246 who have 100 or more employees in the payroll period for which they are reporting, normally any payroll period in December, January, or February preceding the filing of the report.

002.05C2 ~~003.06C2~~ If Standard Form 100 (EEO-1) was not filed ~~due to the Contractor not meeting the~~ because the bidder has less than 100 or more employees requirement, it is proper for the Contractor bidder to state that he/she has submitted all required compliance reports due.

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~~002.05D 003.06D~~ ~~Proposed prime Contractors and Subcontractors Bidders~~ who have participated in a previous contract or subcontract subject to the Federal Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b)(1) prevents the award of contracts and subcontracts unless such ~~Contractor bidder~~ submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

002.06 003.04 CURRENT RATING QUALIFICATION

~~003.04A~~ Each person bidder desiring to bid on work for which prequalification of bidders is required shall submit a request for bid proposal forms and with such request shall submit, on forms provided by the Department, a complete report of all work then under contract, including subcontracts, and the amount of work not completed on all such contracts. A current qualification based on this statement and the ~~Contractor's~~ bidder's "maximum qualification" will be established by the Department taking into account the rate of progress which is being made in performing the uncompleted work, the requirements for the performance of the work for which the ~~Contractor bidder~~ desires to bid, and any other pertinent information that is available to the Department. This current qualification ~~shall be the "current qualification" which~~ determines the amount of work for which any person is qualified at the particular letting and for which he/she may be awarded a contract or contracts, except that the Department may use a tolerance of not more than twenty-five percent of a bidder's current qualification and award the contract or contracts in a total amount which does not exceed by more than twenty-five percent the current rating qualification ~~which~~ is established by the Department.

002.07 003.23 AFFIRMATIVE ACTION

The ~~State Highway~~ Department, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the Regulations of the Department of Transportation (49 CFR, Part 21), issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that the Contract entered into will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, sex, or national origin.

ANNOTATION

**Title 409
Chapter 2 1
Section 002**

**Enabling Legislation
39-102 and 39-1351
and 39-1353
Neb. Rev. Stat.**

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003 BID PROPOSALS

003.01 BID PROPOSAL REQUIREMENTS

~~003.02 PROPOSAL FORMS~~

003.01A ~~003.02A~~ A bid proposal forms for work for which prequalification of bidders is required will be issued only to those qualified to bid. A ~~person~~ bidder will not be considered as qualified for any particular letting if ~~his/her~~ the bidder's qualification will expire on or before the date of the letting.

003.01B ~~003.02B~~ Any ~~persons~~ Bidders submitting two or more bid proposals in a total amount exceeding their current qualification by more than 25 percent shall submit the same, subject to the limitations of their current rating qualification, plus a tolerance of 25 percent. Nothing in these “Rules and Regulations” shall ~~be construed as depriving~~ prevent the Department of the right to from rejecting any bid where, in the opinion of the Department, other circumstances and developments have changed the qualification or responsibility of the bidder.

003.01C ~~003.02C~~ If the qualification rating of the low bidder expires before the award of a contract, such contract will not be awarded until the qualification rating of the low bidder has been renewed.

003.01D ~~003.02D~~ A bid proposal forms for work for which prequalification of bidders is required will be labeled with the name of the bidder to whom they are issued and shall not be transferable. Any bid proposal submitted by a bidder other than the person or company to whom the bid proposal form was issued shall be void.

~~003.02E Proposal forms for work for which prequalification of bidders is required may be issued by the Department at its discretion for information only, but such Informational Proposal forms shall not be used for bidding and shall be stamped with the words “For information only, not to be used for bidding”; and bids submitted on such forms shall be void and not considered.~~

003.01E ~~003.02F~~ A bid proposal forms will not be issued to any bidder later than 5:00 p.m. of the day preceding the letting.

003.01F ~~003.02G~~ A bid proposal forms for any contract for which prequalification of bidders is required may be issued, at the discretion of the Department, to two or more qualified bidders jointly if the classes of work for which the prospective bidders are qualified to perform satisfy, in the aggregate, the qualification requirements for the particular contract. Two or more qualified bidders may not bid jointly to perform any contract for which prequalification of bidders is required unless a bid proposal is issued by the Department to those bidders jointly for that purpose.

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003.02 ~~003.04~~ INTERPRETATION OF QUANTITIES IN BID PROPOSAL FORMS

The quantities listed in the bid proposal forms are considered to be approximations, unless otherwise provided, and are to be used for the comparison of bids. Payments to the Contractor will be made for the actual quantities or Plan quantities, if specified, of work performed or materials furnished in accordance with the ~~Plans and Specifications~~ contract. It is understood that the quantities of work to be done and materials to be furnished may each be increased, diminished, or omitted as hereinafter provided without in any way invalidating the unit bid prices, except as provided in Subsection 104.02 of the current edition of the ~~State of Nebraska, Department of Roads,~~ *Standard Specifications for Highway Construction*.

003.03 ~~003.07~~ PREPARATION OF BID PROPOSALS

~~003.07A All bidders shall submit their Department furnished proposal package.~~

003.03A ~~003.07C~~ The blank spaces in the proposal must be filled in correctly, in ink, ~~or~~ typed, or electronically for each ~~and every~~ item and document necessary to submit a complete bid.

003.03B ~~003.07B~~ The bidder must state the unit price for each item of work contemplated. Bidders, when using Electronic Bidding System (EBS) software to prepare and print their bid Schedule of Items, must also submit a computer diskette containing a completed "Schedule of Items" and other required forms or be authorized by the Department to submit their proposal over the Internet.

003.03C The bidder shall use forms downloaded from the NDOR website and the Electronic Bidding Software when submitting a bid proposal.

003.03D The bidder shall pay applicable fees charged by the company providing the electronic bidding software or user fees for Internet services to submit a bid.

003.03E ~~003.03B~~ ~~The only bids the Department will accept are bidder completed Department Proposal Packages. The package bid proposal shall must be submitted in the provided envelopes provided by the Department or as directed by the Department.~~

003.03F Signatures.

003.03F1 ~~003.07K~~ All signatures must be in ink on the line provided in the form. Printed names below the line provided or located in other areas of the form will not be considered. All corrections and other entries not made by the EBS software must be in ink or typed.

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003.03F2 ~~003.07K~~ The Department may at its discretion require the bidder to use electronic signatures.

003.03F3 ~~003.07K~~ Failure of the bidder to properly sign the proposal shall make the proposal incomplete, and the bid will be rejected.

003.03G ~~003.08C2~~ Paper and printers used for each computer-generated bid "Schedule of Items" page shall be of a quality to maintain clear and concise images and to withstand frequent handling.

003.03H ~~003.08C3~~ All computer-generated characters in the electronic bid must be clearly legible.

003.03I ~~003.08D1~~ If the bidder errs in filling out the Schedule of Items or any other form causing an error message or warning message to appear in the electronic bidding software when the bid is received by the Department then the Department may reject the bid.

003.03J ~~003.08D1~~ In the event there is a discrepancy between the information submitted on the diskette or any electronic submission and the paper copy of the bid "Schedule of Items" submitted with the bid proposal, the figures on the paper copy of the bid "Schedule of Items" will prevail.

003.03K ~~003.07G~~ Bid "Schedule of Item" forms must be properly completed. The following rules will apply:

003.03K1 ~~003.07B~~ The bid proposal must state the unit price for each item of work contemplated.

003.03K2 ~~003.07D~~ If the unit price is left blank and the quantity of the item is one and an amount is shown in the "Bid Amount" column, then the amount in the "Bid Amount" column will be considered the unit price.

003.03K3 ~~003.07E~~ If the bidder enters an amount in the "Unit Price" column when "Lump" is shown in that column, the "Unit Price" shall govern in the extension of that item.

003.03K4 ~~003.07J~~ The bidder shall also show the product of the respective unit prices and quantities in the column provided for that purpose and the total amount for each group and combination of groups, as indicated in the bid proposal form, necessary for a complete bid for the work on which the bidder wishes to bid.

003.03K5 ~~003.07G~~ If the unit price is indicated with a line, the unit price will be considered free no matter what amount is shown in the "Bid Amount" column.

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003.03K6 ~~003.07H~~ If the unit price is left blank and the quantity of the item is greater than one, the bid proposal is incomplete and the bid is rejected.

003.03K7 ~~003.07F~~ If ~~both~~ the “Unit Price” and “Bid Amount” columns are left blank, the bid proposal will be considered incomplete and rejected except when alternate or single groups are bid and a bid is not being submitted for those items which were left blank.

003.03K8 ~~003.07I~~ When the bid proposal schedule is divided into groups, a price shall be submitted on each item of work within ~~necessary to submit a complete bid for~~ the group on which the bidder wishes to bid.

003.03K9 ~~003.08A5a(2)~~ ~~DO NOT ENTER ZEROS. Leave these items blank. On alternate groups when the bidder does not intend to submit a bid for a group, the bid for that group must be left blank.~~

~~003.03 CONTENTS OF PROPOSAL PACKAGE~~

~~003.03A The Department will prepare a Proposal Package for each qualified Contractor desiring to bid. The Package contains:~~

003.04 CONTENTS OF BID PROPOSAL PACKAGE. The bidder shall include the following in each bid proposal submitted to the Department:

~~003.03B The only bids the Department will accept are bidder completed Department Proposal Packages. The Package must be submitted in the provided envelope.~~

~~003.03C Proposal forms will state the location and description of the contemplated work and will show the estimate of the various quantities and kinds of work to be performed and/or materials to be furnished. They will include the time in which the work must be completed. Also shown will be the date, time, and place of bid openings.~~

~~003.08C2 Paper and printers used for each computer-generated bid item page shall be of a quality to maintain clear and concise images and to withstand frequent handling.~~

003.04A A Bid Proposal Form.

003.04B ~~003.03A4~~ A schedule of unit price or lump sum bid items: A Schedule of Items Form.

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003.04C Subcontractor List Form.

003.04D Required DBE Participation form (if applicable).

003.04E Certification of Previous EEO Performance (if applicable).

003.04F Equipment Assessment Certification.

003.04G Hiring Practice Certification.

003.04H Drug-Free Workplace Policy Certification.

003.04I Noncollusion Declaration.

003.04J Compliance Certification for Standard Specifications for Highway Construction Sections 102 and 103.

003.04K ~~003.03A5~~ A Proposal Guarantee Bid Bond. Bid Bond form or approved confirmation of a Bid Bond (See subsection 003.08).

003.04L ~~003.03A1~~ All forms the bidder must submit. Other forms, as applicable.

003.04.M ~~003.03A2~~ Those applicable Special Provisions that amend the *Nebraska Standard Specifications for Highway Construction*.

003.04N ~~003.03A3~~ Other Special Provisions that uniquely apply to the project.

003.04O ~~003.03A6~~ An envelope with separate pockets for the proposal and bid bond respectively when required by the Department.

003.04P ~~003.03A7 & 003.07L~~ Notarized Proposal Signature Page. Each bidder, in signing and notarizing the proposal signature page by or on behalf of the person, firm, association, or corporation submitting the bid, certifies that:

003.04P1 ~~003.07L4~~ Such person, firm, association, or corporation has not either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid.

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003.04P2 ~~003.07L2~~ All equipment has been assessed for the current year.

003.04P3 ~~003.07L3~~ The company is operating under a Drug-Free Workplace Policy, a copy of which is being on file with the Department.

003.04P4 ~~003.07L4~~ A contract bond for the contract amount will be furnished.

003.04P5 ~~003.07L5~~ Reports have been filed regarding Equal Opportunity participation (Federally funded projects only).

003.04P6 ~~003.07L6~~ Disadvantaged Business Enterprises (DBE) goals on designated Federally funded projects will be achieved or “good faith” documentation provided.

003.04Q ~~003.07M~~ Failure to submit a signed and notarized bid proposal signature page as part of the bid proposal package will make the bid nonresponsive. False statements in any of the ~~above~~ certifications will constitute perjury.

003.05 BID PROPOSAL SUBMISSION. Bid proposals must comply with all plans, special provisions, addendums, the Specifications (As defined in paragraph 001.02B79 001.82), Supplemental Specifications To The Standard Specifications for Highway Construction, and the Nebraska Rules and Regulations regarding bid preparation and bid submittal.

003.05A At the Departments discretion there are two options to submit bid proposals. The bidder can deliver to the Contracts Office a bid proposal package (As defined in paragraph 003.04.) in the Department provided envelopes or AUTHORIZED bidders can submit the bid proposal electronically over the Internet.

003.05A1 ~~003.12~~ OPTION 1 - The bid proposal and Bid Bond shall be placed in separate sealed envelopes, attached to each other, and furnished by the Department. If an “Annual Bid Bond” is applicable the bidder shall indicate this in writing in the Bid Bond envelope. The envelope containing the bid proposal shall be marked by the bidder to indicate its contents. Bid proposals shall be received until the date and hour set forth for the opening and must be, by that time, delivered to the place indicated in the “Notice to Contractors.”

003.05A2 OPTION 2 - Bidders may submit bid proposals electronically over the Internet. Internet bid proposals must have the bid bonds registered on a registry approved by the Department and the bidder must provide the Department access to the bid bond data to confirm the existence of the bid bond specific to the project or the bidder must have an “Annual Bid Bond” on file with the Department.

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003.05B ~~The bidder must obtain prior approval from the Department to submit a non-electronic bid and/or bid bond. The Department retains the discretion to accept as responsive a non-electronic bid and/or bid bond.~~

003.06 ~~003.09~~ TIES AND LIMITATIONS

003.06A ~~003.09A~~ Combination bids for two or more groups in any bid proposal may be submitted, except that any bridge group may be bid in combination only with a culvert group or another bridge group and that the culvert groups may be bid in combination with one or more bridge groups only when not bid in combination with other groups in the same bid proposal. The classification of two or more groups tied together by the Department shall be as stated in the "Notice to Contractors," and shall be considered as a group of that classification. A separate and complete bid for each group of items shall be included in the combination bid. If a bidder desires to tie his/her bid for two or more groups on any bid proposal, such tie shall be clearly indicated, in the space provided, by writing in group numbers and by striking out the words which do not apply. The bidder shall not indicate a tie in words other than those shown and shall not alter or add to the words shown in order to provide other than one tie or condition. If a tie is indicated by writing in group numbers without striking out the words which do not apply, it will be interpreted that a tie was not intended and the bid will be considered on that basis, regardless of ~~where~~ whether the group numbers are placed in the space provided. Underlining words or any other marking instead of striking out the words which do not apply will not be considered as indicating a tie. The bidder shall not insert a tie or condition in any other place in the bid proposal except in the space provided on the front cover of the bid proposal.

003.06B ~~003.09B~~ A bid proposal shall not be tied to any other bid proposal except as may be indicated on the front cover of the bid proposal form. If the bidder desires to tie his/her bid to his/her bid on any or all of the other bid proposals which may be indicated on the bid proposal form, such tie shall be clearly indicated in the space provided by striking out the words "is not tied" and the numbers which do not apply. The bidder shall not indicate a tie in words other than those shown. If the bidder indicates a tie between any bid proposal and one or more other bid proposals and the groups in the bid proposal for which the bid is submitted are not tied together by either the Department or the bidder, it will be assumed that the bids for the comparable individual groups only on the two or more bid proposals are tied.

003.06C ~~003.09C~~ If the bidder does not designate a preference in the space provided, it will be assumed that he/she does not desire to tie his/her bid to any of the bid proposals listed therein; and the bid will be considered on that basis. Underlining words, or any other marking, instead of striking out the words which do not apply will not be considered as indicating a tie. The bidder shall not insert a tie in any other place in his/her bid proposal except in the space provided on the front cover of the bid proposal form.

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003.06D ~~003.09D~~ A ~~Contractor~~ bidder may bid on all or any part of the work included in any one letting and for which he/she is prequalified, even though the total of all bids submitted exceeds his/her current qualification. In the event a bidder submits the low bids for more work than the amount of his/her qualification, contracts will not be awarded to him/her in excess of his/her current qualification plus twenty-five percent.

003.06E ~~003.09E~~ The Engineer reserves the right to make awards that will be in the best interest of the State, and any comment in a bid proposal limiting or qualifying this reserved right shall constitute an irregular bid. However, the bidder may specify one or more of the following:

003.06E1 ~~003.09E1~~ The maximum monetary value of awards that will be accepted.

003.06E2 ~~003.09E2~~ The total number of contracts that will be accepted.

003.06E3 ~~003.09E3~~ The number of contracts of any particular class or classes of work that will be accepted.

003.06F ~~003.09F~~ Such limitations must be indicated in the space provided on the front cover of the bid proposal form. Any limitation in the number of contracts of any particular class or classes of work that the bidder will accept will be considered as applying only to the class or classes of work mentioned.

003.06G ~~003.09G~~ The bidder shall not make a conditional deduction or reduction in any unit price in any bid proposal.

003.07 ~~003.10~~ IRREGULAR BID PROPOSALS

003.07A ~~003.10A~~ Any tie, statement, qualification, or limitation made by the bidder in violation of, or not permitted by, Section ~~003.09~~ 003.06 will cause the bid to be considered void.

003.07B ~~003.10B~~ Bid proposals may be rejected if they show any alterations of forms, additions not called for, conditional bids, alternate bids, incomplete bids, erasures, or irregularities of any kind. Each bidder shall make an honest attempt to show correct extensions and totals in his/her bid. If, in the opinion of the Engineer, such an attempt is not made, such bid proposals may be rejected.

003.07C ~~003.10C~~ In the event of a discrepancy between unit bid prices, extensions, and/or totals, the unit price shall govern.

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003.07D ~~003.10D~~ Special provisions or documents bound with or attached to the bid proposal shall be considered a part thereof and shall not be detached or altered. Any bid proposals not complying with this requirement shall be considered void.

003.08 ~~003.14~~ BID PROPOSAL GUARANTY

003.08A Each bid proposal shall be bonded with a Bid Bond made payable to the Department in an amount equal to at least five (5) percent of the amount bid. Bid Bonds must be executed by corporations authorized to contract as a surety in the State of Nebraska. Any alterations, conditions, or limitations added to the Department of Roads' bid bond form will be unacceptable and cause the bid not to be opened and read. All bid bonds must be current as of the time of the letting and must contain a provision preventing termination of such bond later than 5 days prior to the letting. There are three options to submit the bid proposal bid bond:

003.08A1 OPTION 1 - The Bid Bond shall be executed on the Department of Roads Bid Bond form, copies of which may be obtained from the Department and/or from the Department's website. The Bid Bond shall be delivered to the Department with the bid proposal.

003.08A2 OPTION 2 - The Department at its discretion may allow a bidder to authorize a bonding company to register the bid bond with a bond registry company and provide the Department access to the bid bond data to confirm the existence of the bid bond specific to the project and to documentation that the bond is valid. The bidder must indicate in the bid submittal to the Department that their bid bond is posted on the Internet.

003.08A3 OPTION 3 - The Department at its discretion may allow a bidder to place an "Annual Bid Bond" on file with the Department. This bond would cover all projects the bidder bids for a 12-month period shown in the bond. The bidder must indicate in the bid submittal to the Department that their "annual bid bond" applies to the submitted bid.

003.09 ~~003.13~~ WITHDRAWAL OF BID PROPOSALS

003.09A ~~003.13A~~ A bidder may withdraw an unopened bid proposal at any time prior to the bid opening time specified in the "Notice to Contractors."

003.09B ~~003.13B~~ To withdraw a bid proposal, the bidder shall provide written notice (letter, telegram, or FAX) to the Department's Contracting Office prior to the time established for the bid opening. The notice shall be signed by a person authorized to withdraw bid proposals and this shall be stated in the notice.

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003.09C ~~003.13C~~ The bidder may resubmit withdrawn bid proposals.

003.09D ~~003.13D~~ The Department will not accept resubmitted bid proposals after the bid opening time specified in the "Notice to Contractors."

003.10 ~~003.14~~ PUBLIC OPENING OF BID PROPOSALS

003.10A ~~003.14A~~ Except when specifically authorized in writing by the Department and except as authorized in paragraph ~~003.08~~ 003.09 bid proposals will be opened and read publicly at the time and place indicated in the "Notice to Contractors." Bid proposals and bid bonds not filed in the envelopes provided by the Department for that purpose except as authorized in paragraph 003.05 and 003.08 will not be opened and read. Proposals not accompanied by a Bid Bond filed in the envelope for that purpose will not be opened and read. Errors by the bidder in filing his/her bid proposal will not be cause for waiving any of the above requirements and will not be the responsibility of the Department.

003.10B ~~003.14B~~ The "Total Bid" for each bid proposal will be read publicly. The group totals and unit prices for individual bid proposals may be read at the sole discretion of the Department.

~~003.08~~ ELECTRONIC BID SYSTEM (EBS) (OPTIONAL PROCEDURE)

~~003.08A~~ GENERAL PROVISIONS

~~003.08A1~~ Bidders who wish to prepare and submit their bids using an electronic process must use the Electronic Bid System (EBS) furnished by the Department and must subscribe to the CompuServe State D.O.T. Forum. The Department will furnish these bidders with the necessary EBS software to install on their computers through the Nebraska Department of Roads Forum on CompuServe. The Bid Managers Users Guide will be provided upon request.

~~003.08A2~~ Bidders using EBS must have an Advanced Payment Account with the Nebraska Department of Roads. Bidders using EBS to prepare and print their bid item schedule must also submit an electronic diskette containing those bid(s). If a bidder fails to submit an electronic diskette containing their bids, the Advanced Payment Account will be assessed a fee for each bid missing from the diskette. All bids for a single letting shall be submitted on one 88.9 mm diskette.

~~003.08A3~~ The Department shall provide requesting bidders the following:—

~~003.08A3a~~ The Bid Package(s).

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~~003.08A3b~~ The Bid Bond Form(s).

~~003.08A3c~~ The Bid Envelope(s).

~~003.08A3d~~ EBS Software (Through CompuServe).

~~003.08A3e~~ EBS Bid Managers Guide (Through CompuServe).

~~003.08A4~~ The bid items for all projects in a letting will be distributed through the CompuServe State D.O.T. Forum.

~~003.08A5~~ Electronic bids must comply with all Plans, Special Provisions, the Standard Specifications for Highway Construction, Supplemental Specifications to the Standard Specifications for Highway Construction, and the Rules and Regulations of the Nebraska Department of Roads regarding bid preparation and bid submittal.

~~003.08A5a~~ Exceptions:-

~~003.08A5a(1)~~ Items of work for which the bidder intends to make no charge to the Department must have a zero (0) unit price entered.

~~003.08A5a(2)~~ Blank unit prices will be considered an invalid bid.

~~003.08A5a(3)~~ EXCEPTION: However, for alternate groups the Contractor is not bidding, DO NOT ENTER ZEROS. Leave these items blank.

~~003.08B~~ ASSEMBLY OF BID PROPOSAL

~~003.08B1~~ Continuously-rolled printer paper must be separated into individual pages before it is inserted into the Bid Envelope. Bid proposals printed on continuously-rolled printer paper will not be accepted. Sheets must be separated into individual pages.

~~003.08B2~~ The electronic diskette shall be submitted in a separate sealed envelope marked with the bidders name and all call order numbers for which electronic bids are submitted. The Bid Proposal(s) including the computer generated item sheets and Bid Bonds shall be submitted in their individual Bid Envelopes. The computer diskette containing files of all required forms shall be submitted in a separate sealed envelope marked with the bidder's name and all call order numbers for which electronic bids are submitted. The Bid Proposal(s) including paper copies of all required forms downloaded from the EBS and bid bonds shall be submitted in their individual Bid Envelopes.

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~~003.08C~~ ~~FORMAT OF EBS BIDS AND OTHER ELECTRONIC BID REQUIREMENTS~~

~~003.08C1~~ The size of computer-generated bid item pages shall be 216 mm horizontal by 279 mm vertical. All forms shall be printed on paper 8 1/2 inches (210 mm) horizontal by 11 inches (280 mm) vertical.

~~003.08C3~~ All computer-generated characters in the electronic bid must be clearly legible.

~~003.08D~~ ~~DISCREPANCY BETWEEN INFORMATION ON THE DISKETTE AND BID ITEM PAGES SUBMITTED~~

~~003.08D1~~ In the event there is a discrepancy between the information submitted on the diskette and the bid item pages submitted with the proposal, the figures on the bid item pages will prevail.

~~003.08D2~~ If the bidder completes and submits both the bid item sheets in the original bid proposal package and the EBS-generated bid item sheets and there is a discrepancy between them, the figures contained in the original bid proposal will prevail.

~~003.08E~~ ~~REJECTION OF EBS BIDS BY THE DEPARTMENT~~

Any of the following will be considered cause to reject an electronic bid.

~~003.08E1~~ Failure to submit all computer-generated bid item pages.

~~003.08E2~~ Failure to sign the Bid Proposal and the computer-generated signature page, as well as all other forms requiring signatures.

~~003.08E3~~ Failure to complete each line of the computer-generated pages.

ANNOTATION

**Title 409
Chapter 2 1
Section 003**

**Enabling Legislation
39-102 and 39-1351
and 39-1353
Neb. Rev. Stat.**

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004 003.15 DISQUALIFICATION OF BIDDERS AND DEBARMENT POLICY AND PROCEDURES

004.01 003.15A DISQUALIFICATION

Any one or more of the following causes shall be considered as sufficient for the disqualification of a bidder and the rejection of his/her bid proposal or bid proposals:

004.01A 003.15A1 More than one bid proposal on any class of work on any one project from an individual, a firm or partnership, a corporation, or an association under the same or different names. Reasonable grounds for believing that any bidder is interested in more than one bid proposal for the work contemplated will cause the rejection of all bid proposals in which such bidder is interested.

004.01B 003.15A2 EVIDENCE OF COLLUSION AMONG BIDDERS. Any or all bid proposals will be rejected if there is reason for believing that collusion exists among the bidders or if the bidder has been found unacceptable to bid due to collusion prior to award of the contract.

004.01C 003.15A3 Bid proposals in which the prices are obviously unbalanced.

004.01D 003.15A4 BID PROPOSALS WHICH ARE MATERIALLY UNBALANCED. ~~Bid proposals which are materially unbalanced.~~ A bid is unbalanced if lump sum prices or unit bid prices do not reflect reasonable actual costs and there is a reasonable doubt that the lowest ultimate cost under the contract will be achieved. 003.15A5 Following conclusive evidence of collusion among bidders, participating bidders in such collusion will receive no recognition as bidders for any future work of the Department until such participants are reinstated as qualified bidders.

004.01E 003.15A6 Bid proposals which are accompanied by Bid Bonds on forms ~~other than the Department's form that are not authorized by the Department~~ or by a Bid Bond forms which is are incorrectly completed or is are incomplete.

004.01F 003.15A7 A bid proposal in which the affidavit form signature page is incorrectly completed or is incomplete.

004.02 003.15B DEBARMENT

004.02A 003.15B1 The Director may, in his/her sole discretion, debar an individual, a ~~Contractor bidder~~, or its affiliates from bidding, subcontracting, or supplying materials on Department of Roads contracts for any illegal activity involving bidding evidenced by any of the following:

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004.02A1B ~~003.15B1a~~ An indictment or conviction of a bidding crime; any plea of guilty or nolo contendere to a charge of a bidding crime; any public admission of a bidding crime; any presentation of an unindicted co-conspirator; or any testimony protected by a grant of immunity of any ~~Contractor~~ bidder in any jurisdiction indicating involvement in a bidding crime.

004.02A2 ~~003.15B1b~~ Conviction of any offense indicating a lack of moral or ethical integrity as may reasonably be perceived to relate to or reflect upon the business practices of the bidders.

004.02A3 ~~003.15B1c~~ Debarment by any other State or Federal agency for substantially any of the reasons listed above.

004.02A4 ~~003.15B1d~~ Any other activities of an individual, ~~Contractor~~ bidder, or its affiliates of a serious or compelling nature that are reasonably perceived to relate to their work as a Contractor.

004.02A5 ~~003.15B1e~~ Making materially false statements on a bid proposal.

004.02B ~~003.15B2~~ An individual or a ~~Contractor~~ bidder shall be given a debarment hearing if either so requests before or after debarment. The determination as to whether the debarment hearing will be held before or after debarment shall be at the sole discretion of the Director.

004.02B1 ~~003.15B2a~~ The written request for a debarment hearing must be received by the Director no later than ten days after the receipt of the written notice from the Director. Unless otherwise mutually agreed in writing, the debarment hearing shall be held no later than fourteen days after receipt of the individual's or ~~Contractor's~~ bidder's request for a debarment hearing.

004.02B2 ~~003.15B2b~~ DEBARMENT AFTER HEARING. In those situations where the Director decides to hold a debarment hearing prior to deciding whether debarment is proper, he/she shall send written notice to the affected individual, ~~Contractor~~ bidder, or their agents by certified or registered mail stating:

004.02B2a ~~003.15B2b(1)~~ That debarment is being considered.

004.02B2b ~~003.15B2b(2)~~ The general reasons that suggest the debarment.

004.02B2c ~~003.15B2b(3)~~ That the ~~Contractor~~ bidder will be afforded an opportunity for a debarment hearing if requested.

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004.02B3 ~~003.15B2e~~ DEBARMENT BEFORE HEARING. In those situations where the Director determines that debarment is appropriate prior to a debarment hearing, he/she shall send written notice to the affected individual, ~~Contractor~~ bidder, or their agents by certified or registered mail stating:

004.02B3a ~~003.15B2e(1)~~ That the ~~Contractor~~ bidder or individual has been debarred.

004.02B3b ~~003.15B2e(2)~~ The general reasons for the debarment.

004.02B3c ~~003.15B2e(3)~~ That the ~~Contractor~~ bidder or individual shall be accorded the opportunity for a debarment hearing if they so request in writing within ten days of the receipt of the written notice of debarment.

004.02B4 ~~003.15B2d~~ If the ~~Contractor~~ bidder or individual notifies the Director that he/she desires a hearing, the debarment hearing will be held no later than fourteen days after receipt of the individuals or ~~Contractor's~~ bidder's request unless mutually agreed otherwise in writing. The Director shall determine in writing whether the individual or ~~Contractor~~ bidder will be reinstated.

004.02C ~~003.15B3~~ The Director shall appoint a Hearing Examiner to conduct all debarment hearings. The Hearing Examiner shall make a recommendation to the Director, and such recommendation shall include findings of fact and conclusions of law.

004.02D ~~003.15B4~~ Except as modified by the Rules and Regulations of the ~~Nebraska Department of Roads~~, debarment hearings before the Hearing Examiner shall conform to the Code of Civil Procedure applicable to the District Courts of the State. Practice before the Hearing Examiner shall be governed by Department ~~of Roads~~, Rules and Regulations, Title 407, Chapter 1.

004.02E ~~003.15B5~~ Debarment shall be for a period of thirty-six months or, in the case of a reciprocal debarment as provided for under Subsection ~~003.15B4e~~ 004.02A3, the term of the debarment shall be for the same period as the debarment imposed by the other State or the Federal government.

004.02F ~~003.15B6~~ The Director may suspend a debarment at anytime he/she determines it is in the public interest to do so. Mitigating circumstances may be considered in the decision to lift or suspend a debarment and may include, but shall not be limited to:

004.02F1 ~~003.15B6a~~ The degree of culpability of the debarred individual or ~~Contractor~~ bidder.

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004.02F2 ~~003.15B6b~~ Restitution by the debarred individual or ~~Contractor~~ bidder to the State for any perceived overcharges or damages resulting from the actions of the debarred individual or ~~Contractor~~ bidder.

004.02F3 ~~003.15B6c~~ Cooperation by the debarred individual or ~~Contractor~~ bidder with the State, the United States, and/or any other political governmental subdivision in the investigation of bidding crimes, including a full and complete account of the individual's or ~~Contractor's~~ bidder's particular involvement therein.

004.02F4 ~~003.15B6d~~ Disassociation with individuals and firms that have been involved in a bidding crime.

004.02G ~~003.15B7~~ The Director, at his/her discretion, may hold a hearing, no later than fifteen days prior to the last day of the debarment, and require the debarred individual or ~~Contractor~~ bidder to show cause why the debarment should not continue. If the Director, in his/her sole discretion, ~~Contractor~~ bidder determines that a debarred individual or Contractor bidder has failed to become a responsible ~~Contractor~~ bidder, then the Director may continue the debarment for up to twelve additional months. The same show cause procedures shall continue for each successive extension of the original debarment until such time as the Director has determined that the debarred individual or ~~Contractor~~ bidder meets the criteria of a responsible bidder.

004.02H ~~003.15B8~~ For purposes of debarment, the conduct of a ~~Contractor~~ bidder or an individual shall be fully imputed to:

004.02H1 ~~003.15B8a~~ Business firms with which they are or were associated.

004.02H2 ~~003.15B8b~~ Business firms by whom the individual was or is employed.

004.02H3 ~~003.15B8c~~ Parent or subsidiary companies of the ~~Contractor~~ bidder.

004.02H4 ~~003.15B8d~~ Business firms in which the individual or ~~Contractor~~ bidder has a controlling interest.

004.02I ~~003.15B9~~ Debarment of a ~~Contractor~~ bidder shall in no way affect the obligations of the ~~Contractor~~ bidder to the State for services to the Department of ~~Roads~~ already under contract.

004.02J ~~003.15B10~~ Every ~~Contractor~~ bidder currently qualified by the Department of ~~Roads~~ to bid on its contracts shall have a duty to notify the Director if it, any of its employees, officers, board members, or associates are indicted or convicted of a bidding crime within thirty days of the indictment or conviction. Failure to do so is a serious and compelling offense sufficient to result in debarment.

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004.02K ~~003.15B11~~ Every ~~Contractor~~ bidder qualified by the Department of Roads to bid on its contracts shall have a duty to notify the Director if the ~~Contractor~~ bidder, any of its employees, officers, board members, or associates are contacted by any person with the purpose of engaging in any illegal activities in connection with bidding on ~~State highway~~ contracts let by the Department or contracts involving federal aid. Notice shall include the name of the person making such overture or bid proposal, the time and place thereof, and the specific nature of the overture or bid proposal.

004.02L ~~003.15B12~~ A copy of Sections ~~003.15 through 003.15B12~~ 004 of these Rules shall be mailed to each prequalified ~~Contractor~~ bidder and to each ~~Contractor~~ bidder heretofore debarred or suspended.

004.03 ~~003.15G~~ PROCEDURES FOR CERTIFICATION REGARDING DEBARMENT

004.03A ~~003.15C1~~ By signing and submitting a bid proposal, the bidder is providing the certification set out below.

004.03B ~~003.15C2~~ The inability of a person to provide the certification required below will not necessarily result in denial of participation in a contract. The bidder shall submit an explanation of why he/she cannot provide certification. The certification or explanation will be considered in connection with the Department's or agency's determination whether to enter into this transaction. However, failure of the bidder to furnish a certification or an explanation shall disqualify the bid.

004.03C ~~003.15C3~~ The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction, cause prosecution for perjury, bring debarment proceedings, or any combination of the above.

004.03D ~~003.15C4~~ The bidder shall provide immediate written notice to the Department if at any time the bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

004.03E ~~003.15C5~~ The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "bid proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549. The Department may be contacted for assistance in obtaining a copy of those regulations.

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004.03F ~~003.15C6~~ The bidder agrees by submitting this bid proposal that, should the proposed covered transaction be entered into, he/she shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department.

004.03G ~~003.15C7~~ The bidder further agrees by submitting this bid proposal that he/she will include this ~~Subsection (003.15)~~ Section 004, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

004.03H ~~003.15C8~~ A bidder in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction unless he/she knows that the certification is erroneous. A bidder may decide the method and frequency by which he/she determines the eligibility of his/her principals.

004.03I ~~003.15C9~~ Except for transactions authorized under Section ~~003.15C6~~ 004.03F of these instructions, if a bidder in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this contract, in addition to other remedies available to the Federal Government, the Department may terminate this contract for cause or default, cause prosecution for perjury, bring debarment proceedings, or any combination of the above.

004.03J ~~003.15C10~~ The bidder swears, to the best of his/her knowledge and belief, that he/she and the principals:

004.03J1 ~~003.15C10a~~ Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or Agency.

004.03J2 ~~003.15C10b~~ Have not within a three-year period preceding this bid proposal been convicted of or had a civil judgment rendered against them for:

004.03J2a ~~003.15C10b(1)~~ Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction.

004.03J2b ~~003.15C10b(2)~~ Violation of Federal or State antitrust statutes.

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004.03J2c ~~003.15C10b(3)~~ Commission of embezzlement, theft, forgery, bribery, or falsification or destruction of records.

004.03J2d ~~003.15C10b(4)~~ Making false statements.

004.03J2e ~~003.15C10b(5)~~ Receiving stolen property.

004.03J3 ~~003.15C10e~~ Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in Section ~~003.15C10b~~ 004.03J2 of this Regulation.

004.03J4 ~~003.15C10d~~ Have not within a three-year period preceding this bid proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

004.03K ~~003.15C11~~ Where the bidder is unable to certify to any of the statements in the certification, an explanation shall be attached to his/her bid proposal.

ANNOTATION

**Title 409
Chapter 2 1
Section 004**

**Enabling Legislation
39-102 and 39-1351
and 39-1353
Neb. Rev. Stat.**

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005 REQUIREMENTS FOR CONTRACT AWARD, CANCELLATION, AND EXECUTION

005.01 ~~003.17~~ CONTRACT AWARD

The award of the contract will be made in Lincoln, Nebraska, by the ~~Engineer~~ Director to the lowest responsible bidder whose bid proposal complies with all the requirements prescribed. The award will not be made until all necessary investigations have been made into the responsibility of the bidder to whom it is proposed to award the contract; but, in any case, the award shall be made within thirty days after the opening of the bid proposals. The right is reserved to limit the work awarded one ~~Contractor bidder~~ to the amount that he/she is considered capable of handling, taking into account both his/her capacity to perform work and contracts in force. The successful bidder will be notified by letter, mailed to the address shown on his/her bid proposal, that his/her bid has been accepted and that he/she has been awarded the contract.

005.02 ~~003.16~~ CONSIDERATION OF BID PROPOSALS

005.02A ~~003.16A~~ Following the bid opening, the Department will compare the responsive bid proposals. Unless otherwise defined in the Bid proposal, the comparison will be based on the summation of the quantities and the unit bid prices shown in the Bid Schedule. The comparison will be available to the public after one working day.

005.02B ~~003.16B~~ The right is reserved to reject any and all bid proposals and to waive technical errors as may be deemed in the Department's best interest.

005.02C ~~003.16C~~ The Department may consider both tied and untied bids to determine the lowest responsible bidder when entire projects have been tied at the option of the ~~Contractor bidder~~. When untied bids are not received on all tied projects, the Department may award the contract to a ~~Contractor bidder~~ submitting the lowest tied bid, regardless of whether an untied bid on a single project is lower than the tied bid. The Department will act in the best interest of the State when making this determination.

005.02D ~~003.16D~~ The right is reserved to require from any or all bidders on any project, including the apparent low bidder, prior to award of the Contract, all documents and information used in the preparation of their bids. Failure to furnish the documents and information shall result in a period of disqualification that is determined by the ~~Engineer~~ Director.

005.03 ~~003.18~~ CANCELLATION OF AWARD

The Department reserves the right to cancel the award of any contract anytime before the execution of the said contract by all parties without any liability against the Department.

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005.04 003.19 REQUIREMENTS WITH RESPECT TO CONTRACT BOND

The bidder to whom the Contract is awarded shall furnish within thirty days after the award a Contract bond in a sum equal to the full amount of the Contract. The Contract bond must be executed on the form furnished by the Department of ~~Roads~~. Contract bonds must be executed by corporations authorized to contract as a surety in Nebraska.

005.05 003.20 EXECUTION OF CONTRACT

The Contract shall be signed by the successful bidder and returned, together with a satisfactory bond, within thirty days from the date of award. The Department will not execute a contract until ~~after~~ satisfactory bonds, certificate of insurance, and other required documents have been received. No bid proposal shall be considered binding upon the Department until the execution of the Contract.

005.06 003.24 FAILURE TO EXECUTE CONTRACT

005.06A 003.24A A contract is not executed if the ~~Contractor~~ bidder:

005.06A1 003.24A1 Fails to file an acceptable ~~performance~~ contract bond within 30 days from the date of award.

005.06A2 003.24A2 Fails to complete and submit all required forms and documents within 14 days after the opening of bids.

005.06A3 003.24A3 Gives written notice expressing intent not to execute the Contract.

005.06B 003.24B When a contract is not properly executed, the Department may:

005.06B1 003.24B1 Annul the award and cancel the bid with forfeiture of the bid proposal guaranty (forfeiture not imposed as a penalty, but in liquidation of damages sustained).

005.06B2 003.24B2 Proceed with the execution of the Contract after the 30-day period when all required documents have been correctly submitted and adjust the bidder's prequalification downward as specified in Section 002.02B.

005.06B3 003.24B3 Award to the lowest, succeeding, responsive bidder and recover the differences from the defaulting ~~Contractor~~ bidder.

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005.07 003.22 SPECIAL ARRANGEMENTS

The right is reserved, unless otherwise stated in the bid proposal, to consider bids and award separate contracts for each group of items as shown in the bid proposal. All awards under the Standard Specifications are subject to the approval of the Department before becoming effective as contracts.

005.08 003.24 MATERIAL GUARANTY

Before any contract is awarded, the successful bidder may be requested to furnish a complete statement of the origin, composition, and manufacture of any materials to be used in the construction of the work, together with samples which may be subjected to the tests provided for in the Standard Specifications to determine their quality and fitness for the work.

ANNOTATION

**Title 409
Chapter 2 1
Section 005**

**Enabling Legislation
39-102 and 39-1351
and 39-1353
Neb. Rev. Stat.**